



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,587	02/08/2002	Joseph J. Pantuso	NA11P096/02.015.01	2682
28875	7590	08/22/2007		
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			EXAMINER TRUONG, LECHI	
			ART UNIT	PAPER NUMBER
			2194	
			MAIL DATE	DELIVERY MODE
			08/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/071,587

Applicant(s)

PANTUSO ET AL.

Examiner

LeChi Truong

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-29 are presented for the examination.
2. In view of the Appeal Brief filed on 12/14/2005, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 15-21, 22 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.
4. Claims 15-21, 22 are non-statutory because they are software per se embodied in a manner so as to be executable as the only hardware is in an intended use statement.

Claims 15, 22 define "System" in the preamble and the body of the claim recites "selecting", "installing", "wrapping". Selecting, installing, wrapping appear to be software

Art Unit: 2194

functions. Therefore, claims 15, 22 are non-statutory because they recite system claims that comprise software per se embodiments.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 8, 15, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of Lee (US 2003/0135465 A1) in view of Leahy et al (US 2004/0133478 A1) and further in view of Pageet et al (US Patent 5,812,768).

As to claim 1, Lee teaches the invention substantially as claimed including: an application (an application 516, para [0141], ln 4/ para [0145], ln 5-7), a first application program interface (the open API 506, para [0142], ln 1-5/ specific the secure APIs 508, para [0145], ln 6-8), the application adapted for working in conjunction with a first application programming interface to gain access (para [0145], ln 6-8), the first application program interface adapted for permitting the application to gain access (para[0141], ln 5-7/ para[0145], ln 6-8), installing API(present API, para[0129], ln 1-2), a second application program interface[the secure APIs have restricted access to content, para[0142], ln 7-8/ at least one application programming interface(API), the API prevents block level access to the content via a host, right

Art Unit: 2194

col, ln 14-19), a second application program interface adapted for precluding the applications from accessing (para[0142], ln 7-8, right col, ln 14-19).

Lee do not explicitly teaches network access, wrapping the selected applications for allowing the applications to access the network, where the selected application would otherwise be precluded network access by the second application program interface. However, Leahy teaches network access (the network 130 provides connectivity between any of the third party application servers 110 and 115 in the third party application area 102 and any of the API servers 140, 142 and 144, para [0014], ln 8-13), wrapping the selected applications for allowing the applications to access the network (an access rule may include a URL (uniform resource locator)[wrapping] that addresses the API server 140, 142 or 144, with the third party application 110 and 115[application] is to connect when accessing the service of the online commerce site 106, para[0016], ln 2-10/ each access rule m per the service level agreement to an API function used by a specific third party application to connect (via a given URL) to specific API server, para[0017], ln 15-20/ An access rule[wrapping] defines which API server on the online commerce site a specific third party application[selected application] may access when using a specific API function call, para[0004], ln 4-7/ para[0025], ln 1-13), where the selected application would otherwise be precluded network access by the second application program interface (only those third party application and API function calls that have appropriate access rule may access the API server, thereby preventing other parties[the application is precluded network access by the second API] from sharing services by using a specific URL using a specific URL assigned to another third party application. Aslo, since a single third party application may access API servers based on the specifies API function call, the invention also

Art Unit: 2194

prevents the third party user from arbitrary selecting any one of the API servers, para [0042], ln 1-8).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee to incorporate the feature of network access, wrapping the selected applications for allowing the applications to access the network because this provide predictability to the operator of an online commerce side as to user access the online commerce site.

Lee and Leahy do not explicitly teach wrapping the application for allowing the application access the network via the application program interface. However, wrapping the application for allowing the application access the network via the application program interface (An adapter may also be provided as a gateway to convert a foreign communications protocol to the function server protocol to allow applications program to access the service broker functionality even through they are not compatible with the application programming interface, col 3, ln 44-49/ client/server components that have not been written in accordance with the LAPI can be integrated through “ adapters”. An adapter is a software module that, at runtime dynamically maps the “foreign” communication into the LAPI. Using different adapters, the broker supports interoperability between programs that are otherwise unable to communication with each other, col 47, ln 63-67 to col 48, ln 1-3).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Leahy to incorporate the feature of wrapping the application for allowing the application access the network via the application program interface

Art Unit: 2194

because this provides different application programming interfaces for allowing clients and servers communicate and exchange information each other via the broker.

As to claims 8, 15 and 22-24, they are apparatus claims of claim 1; therefore, they are rejected for the same reason as claim 1 above.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable in view of Lee (US 2003/0135465 A1) in view of Leahy et al (US 2004/0133478 A1)) and further in view of Pageet et al (US Patent 5,812,768), as applied to the claim 1, above and further in view of OPT (Optimizations).

As to claim 2, Pageet teaches compressing data that provide compression of data associated with the applications (col 3, ln 44-46).

Lee, Leahy and Pageet do not teach a portable executable image. However, OPT teaches a portable executable image (a portable executable image, page 2, ln 24-26/ page 3, ln 16-19).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Leahy and Pageet to incorporate the feature of a portable executable image because this decreases the image size and increases the program speed at a cost of increased link time.

7. Claims 3-6, 9-13, 16-20, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of Lee (US 2003/0135465 A1) in view of Leahy et al (US 2004/0133478 A1)) and further

Art Unit: 2194

in view of Pageet et al (US Patent 5,812,768), as applied to the claim 1, above and further in view of OPT (Optimizations) and further in view of Moeller (US. Patent 5,473,777).

As to claim 3, Lee, Leahy, Pageet and OPT do not teach, extractor the data in the PE image. However, Moeller teaches extractor the data in the PE image (col 19, ln 67 to col 20, ln 1-5/col 22, ln 43-45/ col 23, ln 35-37/ col 24, ln 10-15).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Leahy, Pageet and OPT to incorporate the feature of extractor the data in the PE image because this enables an object oriented application to access in an object oriented manner by using a native procedural interface.

As to claim 4, Moeller teaches the extractor code is further adapted for interfacing with the second application program interface (col 9, ln 1-5). The extractor code is wrapper for implementing the API of the class library.

As to claim 5, Moeller teaches the wrapper is further adapted for identifying a location in memory (col 24, ln 28-32).

As to claim 6, Moeller teaches the location in memory is where a routine is stored for allowing the selected applications to access the network (col 9, ln 17-20).

As to claims 9-13, 16-20, they are apparatus claims of claims 2-6; therefore, they are rejected for the same reasons as claims 2-6 above.

As to claim 25, OTP teaches a header, a stub program, a file signature, a text section header, a .bss section header, a .rdata section header, and a .debug section header (the sections in the portable executable image, page 2, ln 24).

9. Claims **7, 14 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable in view of Lee (US 2003/0135465 A1) in view of Leahy et al (US 2004/0133478 A1)) and further in view of Pageet et al (US Patent 5,812,768), as applied to claim 1 above, and further in view of Alexander et al (US. Patent 6,748,343 B2).

As to **claim 7**, Lee, Leahy, Pageet do not teach a user to select the application to be allowed to access the network. However, Alexander teaches a user to select the application to be allowed to access the network (a user interface for obtaining a user selection of client, premises, location, monitoring device... and to transmit the data to the processing server, col 19, ln 53-56).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Leahy, Pageet to incorporate the feature of a user to select the application to be allowed to access the network because this allows the computer to transmit the user selection to a processing server which configures one or more monitoring devices.

As to **claims 14, 21**, they are apparatus claims of claim 7; therefore, they are rejected for the same reason as claim 7 above.

9. Claims **26, 29** are rejected under 35 U.S.C. 103(a) as being unpatentable in view of Lee (US 2003/0135465 A1) in view of Leahy et al (US 2004/0133478 A1)) and further in view of Pageet et al (US Patent 5,812,768) and further view of Sitbon et al (US. Patent 5,568,487).

Art Unit: 2194

As to claim 26, Lee, Leahy and Pageet do not teach Sitbon teaches application program include a word processor application, a database program, a browser program, a development tool program, a drawing program, image editing program, and a communication program. However, Sitbon teaches the application program include a word processor application, a database program, a browser program, a development tool program, a drawing program, image editing program, and a communication program (col 1, ln 40-45).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the teaching of Lee, Leahy and Pageet to incorporate the feature of a word processor application, a database program, a browser program, a development tool program, a drawing program, image editing program, and a communication program because this allows the TCP/IP network access to the OSI/CO network that does not require modifying the source code.

As to claim 29, Sitbon teaches the second application program interface is separate from the first application program interface (col 2, ln 25-30).

10. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable in view of Lee (US 2003/0135465 A1) in view of Leahy et al (US 2004/0133478 A1)) and further in view of Pageet et al (US Patent 5,812,768), as applied to the claim 1 above, and further in view of Michael Norton (Basic of network Segmentation: Switching and bridging).

As to claim 27, Lee, Leahy and Pageet do not teach the network utilizing a network card. However, Michael teaches (a network card will attempt one more to transmit the frame, sec: Consuming bandwidth on a single segment, ln 4-5).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Lee, Leahy and Pageet to incorporate the feature of network card would because this provides the listen to the physical layer for the communication on the OIS network.

11. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable in view of Lee (US 2003/0135465 A1) in view of Leahy et al (US 2004/0133478 A1)) and further in view of Pageet et al (US Patent 5,812768), as applied to claim 1 above, and further in view of Bermudez et al (US. 6,874,149 B1).

As to claim 28, Lee, Leahy and Pageet do not teach a modify copy of the first application program interface. However, Bermudez teaches a modify copy of the first application program interface (this modified copy of the API, col 4, ln 22-25).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Lee, Leahy, Pageet to incorporate the feature of a modify copy of the first application program interface because this allows an unprotected memory dynamically linked library to prove an alternative implementation of an API function.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (571) 272 3767. The examiner can normally be reached on 8 - 5.

Art Unit: 2194

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomson, William can be reached on (571) 272 3718. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

LeChi Truong

August 17, 2007


WILLIAM THOMSON
SUPERVISORY PATENT EXAMINER